



Electrical discharge weapons

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Preliminary remarks

65. It is becoming increasingly common in countries visited by the CPT for police officers and other law enforcement officials to be issued with electrical discharge weapons (EDW), and the presence of such devices in places of detention (in particular prisons) has also been observed by the Committee in certain countries. There are various types of EDW, ranging from electric shock batons and other hand-held weapons requiring direct contact with the person who is the intended target to weapons capable of delivering dart-like projectiles which administer an electric shock to a person located at some distance.

66. The use of EDW by law enforcement and other public officials is a controversial subject. There are conflicting views as regards both the specific circumstances in which resort to such weapons can be justified and the potential negative effects on health that the weapons can cause. It is also a fact that by their very nature, EDW lend themselves to misuse. The CPT has on several occasions gathered credible evidence that such weapons have been exploited to inflict severe ill-treatment on persons deprived of their liberty, and the Committee has frequently received allegations that detained persons have been threatened with ill-treatment via the use of EDW.

67. The CPT has already addressed the issue of EDW in several of its visit reports. In the following paragraphs, the Committee wishes to highlight the positions it has adopted to date and indicate some areas of concern. The CPT would welcome comments on this section of its General Report, so as to help the Committee develop its standards in relation to this complex subject.

General principles

68. The CPT understands the wish of national authorities to provide their law enforcement officials with means enabling them to give a more graduated response to dangerous situations with which they are confronted. There is no doubt that the possession of less lethal weapons such as EDW may in some cases make it possible to avoid recourse to firearms. However, electrical discharge weapons can cause acute pain and, as already indicated, they are open to abuse. Consequently, any decision to issue law enforcement officials or other public servants with EDW should be the result of a thorough debate at the level of the country's national executive and legislature. Further, the criteria for deploying EDW should be both defined by law and spelt out in specific regulations.

69. The CPT considers that the use of electric discharge weapons should be subject to the principles of necessity, subsidiarity, proportionality, advance warning (where feasible) and precaution. These principles entail, inter alia, that public officials to whom such weapons are issued must receive adequate training in their use. As regards more specifically EDW capable of discharging projectiles, the criteria governing their use should be directly inspired by those applicable to firearms.

70. In the CPT's view, the use of EDW should be limited to situations where there is a real and immediate threat to life or risk of serious injury. Recourse to such weapons for the sole purpose of securing compliance with an order is inadmissible. Furthermore, recourse to such weapons should only be authorised when other less coercive methods (negotiation and persuasion, manual control techniques, etc) have failed or are impracticable and where it is the only possible alternative to the use of a method presenting a greater risk of injury or death.

Application of these principles to specific situations

71. Applying these principles to specific situations, the CPT has, for example, come out clearly against the issuing of EDW to members of units responsible for deportation operations vis-à-vis immigration detainees. Similarly, the Committee has expressed strong reservations about the use of electric discharge weapons in prison (and a fortiori closed psychiatric) settings. Only very exceptional circumstances (e.g. a hostage-taking situation) might justify the resort to EDW in such a secure setting, and this subject to the strict condition that the weapons concerned are used only by specially trained staff. There should be no question of any form of EDW being standard issue for staff working in direct contact with persons held in prisons or any other place of deprivation of liberty.

72. Electrical discharge weapons are increasingly being used when effecting arrests, and there have been well-publicised examples of their misuse in this context (e.g. the repeated administration of electric shocks to persons lying on the ground). Clearly, the resort to EDW in such situations must be strictly circumscribed. The guidance found by the CPT in some countries, to the effect that these weapons may be used when law enforcement officials are facing violence – or a threat of violence – of such a level that they would need to use force to protect themselves or others, is so broad as to leave the door open to a disproportionate response. If EDW gradually become the weapon of choice whenever faced with a recalcitrant attitude at the time of arrest, this could have a profoundly negative effect on the public's perception of law enforcement officials.

73. Having regard to the limits of its mandate, the CPT has been reluctant to adopt a firm position vis-à-vis the use of electrical discharge weapons in the context of operations for the maintenance or restoration of public order (e.g. control of demonstrations). That said, in the light of the principles set out in paragraph 70 above, the resort to EDW during such operations can be considered inappropriate unless there is a real and immediate threat to life or risk of serious injury. The law enforcement officials involved will (or should) have at their disposal other means of protection and action that are specifically adapted to the task in hand. It is noteworthy that some police forces in Europe have excluded the use of EDW in the course of operations to control public demonstrations.

74. Particular reference should be made to stun belts and similar devices. The CPT has made clear its opposition to the use of equipment of this kind for controlling the movements of detained persons, whether inside or outside places of deprivation of liberty. Such equipment is, in the Committee's opinion, inherently degrading for the person to whom it is applied, and the scope for misuse is particularly high. Alternative means of ensuring security during the movements of detained persons can and should be found.

Instructions and training

75. Following any decision to issue EDW, the authorities concerned must ensure that detailed instructions are disseminated within the services which will have such weapons at their disposal. Further, the officials who may use the weapons must be specifically selected – taking into account their resistance to stress and faculty of discernment – and suitably trained. An in-service training programme should be put in place together with regular testing (see also paragraph 80).

Technical aspects

76. As with any weapon system, before the EDW in question are made available they should be the subject of a technical authorisation procedure. This procedure should, in particular, ensure that the number, duration and intensity of the electrical discharges is limited to a safe level. The CPT knows of cases in which persons deprived of their liberty have been subjected to several electrical discharges in quick succession; such excessive, unnecessary use of force certainly qualifies as ill-treatment. In addition, provision should be made for a regular maintenance/servicing procedure.

77. EDW should be equipped with devices (generally a memory chip) that can be used for recording various items of information and conducting checks on the use of the weapon (such as the exact time of use; the number, duration and intensity of electrical discharges, etc). The information stored on these chips should be systematically read by the competent authorities at appropriate intervals (at least every three months). Further, the weapons should be provided with built-in laser aiming and video recording devices, making safe aiming possible and enabling the circumstances surrounding their use to be recorded.

78. Electrical discharge weapons issued to law enforcement officials commonly offer different modes of use, in particular a “firing” and a “contact” (drive-stun) mode. In the former, the weapon fires projectiles which attach to the person targeted at a short distance from each other, and an electrical discharge is generated. In the great majority of cases, this discharge provokes generalised muscular contraction which induces temporary paralysis and causes the person concerned to fall to the ground. In contrast, when the “contact” mode is used, electrodes on the end of the weapon produce an electrical arc and when they are brought into contact with the person targeted the electrodes cause very intense, localised pain, with the possibility of burns to the skin. The CPT has strong reservations concerning this latter mode of use. Indeed, properly trained law enforcement officials will have many other control techniques available to them when they are in touching distance of a person who has to be brought under control.

Medical aspects

79. The potential effects of EDW on the physical and mental health of persons against whom they are used is the subject of much argument, a debate that has been fuelled in part by a number of cases of persons dying shortly after having been the target of such a weapon. Although the research on this matter remains for the time being largely inconclusive, it is undisputed that the use of EDW does present specific health risks, such as the possibility of injury on falling after being struck by projectiles or of burns in the event of prolonged use of such a weapon in the “contact” mode. In the absence of detailed research on the potential effects of EDW on particularly vulnerable persons (e.g. the elderly, pregnant women, young children, persons with a pre-existing heart condition), the CPT believes that their use vis-à-vis such persons should in any event be avoided. The use of EDW on people who are delirious or intoxicated is another sensitive issue; persons in this state of mind may well not understand the significance of an advance warning that the weapon will be used and could instead become ever more agitated in such a situation. Deaths during arrest have been attributed to

these medical conditions, in particular when EDW have been deployed. Therefore, particular caution is warranted and the use of EDW should be avoided in such a case and, in general, in situations where EDW might increase the risk of death or injury.

80. The training of officials to be issued with EDW should include information about when it is inappropriate, for medical reasons, to use them as well as concerning emergency care (in the event of a fall, burns, wounds from the projectiles, cardiac disturbances, agitated delirium, etc). Further, once brought under control, a person who has been the target of an EDW should be informed that the weapon has only a temporary effect.

81. The CPT considers that anyone against whom an EDW has been used should, in all cases, be seen by a doctor and, where necessary, taken to hospital. Doctors and accident/emergency services should be informed of the ways in which persons who have been the target of such weapons may be affected and of the relevant forms of treatment, from the standpoint of both physical and psychological health. Further, a medical certificate should be given to the persons concerned (and/or to their lawyer, upon request).

Post-incident procedure

82. Following each use of an EDW, there should be a debriefing of the law enforcement official who had recourse to the weapon. Further, the incident should be the subject of a detailed report to a higher authority. This report should indicate the precise circumstances considered to justify resort to the weapon, the mode of use, as well as all other relevant information (presence of witnesses, whether other weapons were available, medical care given to the person targeted, etc). The technical information registered on the memory chip and the video recording of the use of the EDW should be included in the report.

83. This internal procedure should be accompanied by an external monitoring element. This could consist of systematically informing, at regular intervals, an independent body responsible for supervising law enforcement agencies of all cases of resort to EDW.

84. Whenever it transpires that the use of an EDW may not have been in accordance with the relevant laws or regulations, an appropriate investigation (disciplinary and/or criminal) should be set in motion.